

JAN 28 1992

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Amendment of Part 97 of the Commission's Rules Governing the Amateur Radio Services Regarding Repeater and Auxiliary Operation in the 1.25 Meter Band

RM-7869

The American Radio Relay League, Incorporated
225 Main Street
Newington, CT 06111

Christopher D. Imlay, Esquire
BOOTH, FRERET & IMLAY
1920 N Street, N. W., Suite 150
Washington, D. C. 20036

January 28, 1992

SUMMARY

The American Radio Relay League, Incorporated submits its reply to certain of the comments filed in response to the League's petition for rule making. The petition seeks the amendment of the Commission's Rules governing the Amateur Radio Service to create a subband at 222.0-222.150 MHz within which repeater and auxiliary operation would not be permitted. Such would permit amateur operation in that segment, including passive lunar reflection, terrestrial CW and SSB operation, and propagation experimentation, all of which is incompatible with repeater and auxiliary operation.

The comments filed in response to the League's petition fall into two categories: those which support the creation of the subband by regulation, and those who oppose any regulation at all, preferring to rely on voluntary band planning by regional and local frequency coordinating entities within the Amateur Radio Service.

The supporters of the petition suggest that so-called "weak

RECEIVED

JAN 28 1992

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Federal Communications Commission
Office of the Secretary

In the Matter of)
)
Amendment of Part 97 of the)
Commission's Rules Governing the) RM-7869
Amateur Radio Services Regarding)
Repeater and Auxiliary Operation)
in the 1.25 Meter Band)

REPLY COMMENTS OF THE AMERICAN RADIO RELAY LEAGUE, INCORPORATED

The American Radio Relay League, Incorporated (the League), petitioner in the captioned rule-making proceeding, hereby submits its reply to comments filed in response to the League's Petition For Rule Making. The petition, filed November 12, 1991, was placed on public notice November 27, 1991. (See, Report No. 1868)¹. The League filed no comments on its own petition, but has reviewed the comments filed by others. In reply to certain of those comments, the League states as follows:

1. The League's petition seeks to create a 150 kHz-wide subband in the 222-225 MHz band in which repeaters and auxiliary stations would not be permitted. The comments in response to the petition reflect a split of opinion. With but a few exceptions, the comments are brief and without significant substantial argument, though it is apparent that among those who filed

¹ Based on Section 1.405(b) of the Rules, these Reply Comments would have been due January 13, 1992. However, for reasons stated in a Motion for Extension of Time to Submit Reply Comments, the League sought until January 28, 1992 to file them. Though League staff received oral assurance that these reply comments would be considered as having been timely filed, no order has been issued addressing the motion. Thus, these comments are accompanied by a Motion for Leave to File Late Reply Comments.

comments, both proponents and opponents of a non-repeater, non-auxiliary subband at 222 MHz, feel strongly on the matter. Perhaps the most important fact to note about the comments is that, almost without exception, those in opposition to the petition were filed by amateurs from southern California. Those in support of the petition were primarily not from California, but from various other areas of the country. The comments in opposition to the petition follow an essentially identical format. The somewhat fewer comments of those in support of the League's petition are more diverse².

2. There are two positions taken in the comments on the subject of a national weak-signal subband at 222 MHz. At first glance, it would appear that there is no common ground between the two. One view, taken by repeater owners and users is that there

variations on the national band plan. These commenters allege that the severe crowding in the 222-225 MHz band necessitates some variation from the national band plan, at least in southern California. Some commenters claim that a 150 kHz subband at 222 MHz is too large, and would displace numerous repeaters now in operation in that segment. The commenters identify some 15-17 repeaters in southern California which would be displaced by the proposed subband; some of these have already been relocated from the 220-222 Mhz segment. They express doubt that these stations could be accommodated elsewhere in the crowded 222-225 MHz band.

3. The other view, that of the weak-signal users, is that there cannot be (and has not been) an equitable local band planning effort in southern California with respect to the 222-225 MHz band, because the band planning is being done by local repeater coordinators who are partial to the repeater owners and users to the exclusion of the weak signal enthusiasts³. They believe that

³ As commenter David Gutierrez, WA6PMX, of La Palma, CA put it:

The new national 1.25 (Meter) band plan has 150 kHz for weak signal operations. The segment is less than half the size of the weak signal segments on our other VHF bands and it is a reduction of 350 kHz from what we had before we lost 40 percent of our band. In southern California, a new local band plan allocated only 10 kHz for weak signal operation and placed the allocation right next to...a repeater allocation...ignoring the fundamental incompatibility between repeater operation and weak signal operation...The band plan did not decrease the allocation of repeaters.

It seems very clear to me that the local frequency coordinator will not give up any spectrum to accommodate the weak signal users voluntarily. The local frequency coordinator is dominated by repeater owners and repeater

those existing repeater owners and users who have traditionally operated repeaters at 222-225 MHz will be, and in fact have been, unwilling to make a reasonable accommodation for other types of users in the same bands. Indeed, they note, the lost segment at 220-222 MHz was primarily the province of the weak signal operators and experimenters. They were principally the ones who lost frequencies at 220-222 MHz, while the repeater users did not suffer from the loss of that segment as severely⁴. They assert that the repeater owners and users seek to keep the remainder of the 1.25 meter band the sole province of repeaters and auxiliary stations, which are incompatible with most weak-signal operation.

4. The League asserted when it filed its petition, and remains convinced now, that there is a necessary place in each amateur VHF and UHF allocation for important scientific experimentation, and for amateur uses other than repeaters and auxiliary operation. A non-repeater, non-auxiliary subband, be it based on volunteer agreement or Commission rule, should be uniform nationally. This is facially apparent: regional differences in the location of a weak-signal subband are self-defeating where long-distance communication experiments, often involving many stations at many locations throughout the United States at the same time, are being conducted.

users. The weak signal community in southern California is much smaller than the repeater community and will always be outvoted.

⁴ In fact, in southern California, and in other areas as well, several repeaters did have to be reaccommodated, or were lost, as the result of the reallocation of 220-222 MHz.

Those installing new EME facilities at 222 MHz, for example, cannot cope with regional differences in weak signal segments around the country, in view of the finely-tuned nature of the antenna arrays. That some weak signal segment is useful does not seem to be a matter of dispute. The issues are how best to implement a weak-signal segment in a crowded band, and how large that segment should be.

5. However, the repeater owners and users are correct that generally, deference should be accorded regional variations on national band plans, and that such should be left to the amateur community to develop without regulatory intervention⁵. Certainly, national voluntary band plans, and to the extent necessary, regional variations thereon, are critical for efficient spectrum utilization. It is a process that has worked, and continues to work well overall. Amateurs generally, and in Southern California in particular, are to be highly commended for making the best of an extremely bad situation with respect to the 220-225 MHz allocation. It is not only in Southern California where the loss of the 220-222 MHz band has resulted in many stations being displaced (though that may be the most notable example of the difficulty faced by amateurs); many other metropolitan areas of the country face the

stations into a band reduced by 40 percent has been a momentous task, and one that has required the utmost resourcefulness on the part of the local coordinating entities, and cooperation among amateurs generally. Compromises have had to be made because of the

7. Why, however, must the Commission create the subband by regulation? Would it not be preferable to rely on mutual agreement within the amateur community, as suggested by the repeater owners and users, since that is the preferred method of organizing amateur operation in the VHF and UHF bands?⁶ The League does not believe that there is a problem with the local coordination process, as some of the comments in this proceeding suggest, or that the coordinators will act parochially to the detriment of weak signal users. It is the League's experience that coordinating entities in the Amateur Radio Service operate reasonably and fairly relative to non-repeater VHF and UHF users, as indeed they must do by definition in order to be coordinators in the Amateur Radio Service. As the Commission stated in Docket 85-22:

It is essential that repeater coordinators respond to the broadest base of local amateurs, and consider the concerns not only of repeater owners but also of those users of spectrum affected by repeater operation. Their authority is derived from the voluntary participation of the entire amateur community; their recognition must be derived from the same source. We believe that the new rules will assure that a coordinator is representative of all local amateur radio operators.

(60 RR 2d at 209; emphasis added).

⁶ The comments of the 220 SMA, supra, cite the Commission's Report and Order in Docket 85-22, 60 RR 2d 204, affirmed on reconsideration, 62 RR 2d 109 (1986) for the proposition that the Commission will not adopt rules to formulate national band plans or to require them. Generally, the Commission favors voluntary band plans over Commission-imposed band plans in the Amateur Radio Service, as rule mandated band plans may result in inflexibility, increased enforcement burdens and greater regulatory burdens. 60 RR 2d at 209.

Thus, if the local coordinating entity ignores the interests of non-repeater users in favor of repeater owners and users, it cannot be the coordinator, and cannot act as such.

8. The reason why volunteer agreement is not sufficient in determining local weak-signal subbands, and the reason why the Commission has created such subbands in other bands (and in the former 220-225 MHz band), is because there is no enforcement authority for the band planning decisions of the volunteer coordinating body. The sole penalty for operating a repeater in a segment reserved by volunteer agreement for weak-signal work is that such repeater will be deemed to be uncoordinated. The effect of that determination, however, has no bearing on repeater interference to weak-signal operations. According to Section 97.205(c) of the Commission's rules, an uncoordinated repeater must bear the burden of interference resolution to coordinated repeaters, but no more than that.⁷ The local coordinating body cannot order off the air uncoordinated users, and it cannot therefore protect the weak signal operators from interference from uncoordinated repeaters. Thus, despite the best intentions, creative planning and effort of the coordinating entity in creating workable compromise band plans together with representatives of all amateur operating interests in the band, there is no regulatory

⁷ Thus, there actually is an incentive for an uncoordinated repeater to establish itself outside an agreed-upon repeater subband. There, it would interfere with weak-signal stations, rather than other repeaters, and avoid Section 97.205(c) interference resolution presumptions.

protection against incompatible users. The work of the coordinators is necessary, but not sufficient, to protect weak signal users from interference. The difficulty associated with the reaccommodation of displaced users, in the 222-225 MHz band especially, suggests that there may well be those, absent a Commission-mandated weak-signal subband, who would initiate repeater or auxiliary operation within a segment reserved by agreement for weak signal operation. There is presently a regulatory incentive to do so.

9. While a weak-signal subband at 222 MHz of some magnitude is therefore necessary, and it must be located uniformly throughout the United States in order to be useful for propagation experiments

to be a reasonably small segment (5 percent of the total remaining band), and it appeared sufficient for weak signal operation. However, it may be that a smaller subband would suffice. The comments do not suggest that a larger subband is necessary. The League suggests that the size of the subband be the subject of comment in response to a Notice of Proposed Rule Making based on the League's petition, and that the input of local coordinating entities be weighed heavily in the final determination of the appropriate size of the subband.

10. The League agrees with all commenters that there is not really a good solution to the problem created by the Commission when it reallocated the 220-222 MHz band. It imposed a serious hardship on the Amateur Radio Service, as the League said it would. According to the commenters, several repeaters in Southern California now operating at 222.000-222.150 MHz could not be relocated, and may have to cease operation if the subband sought by the League is created. That would be an unfortunate result, which perhaps could be avoided if a smaller subband than that suggested by the League is implemented. No true radio amateur wishes to affirmatively displace another from a frequency band, and it is believed that through the notice and comment process, the amateur community will develop a consensus as to the proper size of the subband to minimize the effect on repeaters and auxiliary stations.

11. The League notes in this regard the comments of a local chapter of the American National Red Cross, which objects to any regulatory decision that would make repeaters less available in

disaster situations in Southern California, and the League agrees wholeheartedly. It is not, however, believed that the creation of a small non-repeater, non-auxiliary subband would lead to a decrease overall in the number of repeaters available for disaster communications, in Southern California, or elsewhere. There are, in fact, a large number of repeaters in Southern California, both at 222-225 MHz and in other bands. The Red Cross need not be concerned that there will be any shortage of repeaters, many with excellent wide area coverage, which are available for disaster communications.

12. The League believes firmly, however, that some exclusive segment of the band should be set aside to protect the legitimate operating interests of weak signal users, and that the size of this segment can be agreed on by cooperative dialogue, even in southern California, where the crowding of the 222-225 Mhz band is the worst⁹. Weak signal enthusiasts, having lost the entirety of their

⁹ It was stated in the "Comments of a Group of Southern California 222 MHz Weak Signal Operators", supra, at page 3, that:

When the bottom two megahertz segment of the band was reallocated, several repeater coordinating bodies in other regions recognized new (albeit small) non-repeater subbands at 222 MHz, even though that forced some repeater stations to move higher in the band- and share frequencies previously used by other repeaters on an exclusive basis.

However, in Southern California...(i)n essence, what happened was that the 220 Spectrum Management Association...the primary Southern California repeater coordinating body for this band...decreed that all 69 existing repeater pairs would be retained... SMA... ruled that the first repeater input would remain at 222.020 MHz, and that weak signal operations, if any, would occur only in the bottom 10 kilohertz of the band.

subband, now seek to obtain at least some minimal reaccommodation. They can and should reasonably expect other amateurs to accommodate them, but only to the extent that they can justify the amount sought to be set aside for non-repeater, non-auxiliary operation. Voluntary cooperation among incompatible amateur users can be expected, and local volunteer coordinators have done a fine job in developing such coordination, but compliance with voluntarily-established local, regional or national band plans cannot always be taken for granted.

Therefore, the foregoing considered, the American Radio Relay League, Incorporated again respectfully requests that the Commission promptly issue a Notice of Proposed Rule Making looking

(emphasis in original).

The League is certain that, with further discussions, the local coordinating entity will, as it must in order to remain a coordinator under the Commission's Docket 85-22 definition, make reasonable accommodation for weak signal users, and arrive at a subband that all amateurs in Southern California can support in comments in response to a Notice of Proposed Rule Making.


toward amendment of the Rules as requested in the League's Petition
for Rule Making in this proceeding.

Respectfully submitted,

THE AMERICAN RADIO RELAY
LEAGUE, INCORPORATED

225 Main Street
Newington, CT 06111

By


Christopher D. Imlay
Its Counsel

BOOTH, FRERET & IMLAY
1920 N Street, N. W.
Suite 150
Washington, D. C. 20036
(202) 296-9100

January 28, 1992

CERTIFICATE OF SERVICE

I, Margaret A. Ford, Office Manager of the law firm of Booth, Freret & Imlay, do hereby certify that copies of the foregoing REPLY COMMENTS OF THE AMERICAN RADIO RELAY LEAGUE, INCORPORATED were mailed this 28th day of January, 1992, to the offices of the following:

Charles J. Zabilski, Esquire
9620 Sepulveda Boulevard
Suite 11
Sepulveda, CA 91343

James Steffen, KC6A
6831 Espanita Street
Long Beach, CA 90815

David G. Gutierrez, WA6PMX
5221 Del Norte Circle
La Palma, CA 90623-2206

Raymond H. Hughes, Director
Health & Safety Services
American Red Cross
West San Gabriel Valley Chapter
17 South First Street
Alhambra, CA 91801


Margaret A. Ford